IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

OP.No. 18915 of 2001(B)

PETITIONERS:
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1. THE MERCHANTS' ASSOCIATION, REG.NO.S-45/71, VYAPARI BHAVAN, CHERTHALA-688 524, REPRESENTED BY ITS GENERAL SECRETARY P.ROBIN.

2. P.ROBIN, MELANGATH, CMC-XXIII, CHERTHALA P.O.

3. S.PRESANNAN, VALLAE VELIYIL HOUSE, CMC-XXI, CHERTHALA.

4. P.X.JOSEPH, PALLICKARA HOUSE, VARANADU P.O., CHERTHALA.

5. K.J.JOSEPH, KUNNUMPURATHU HOUSE, CMC-XXVI, CHERTHALA.

6. A.C.JOSEPH, ARACKAPARAMBIL HOUSE, CMC-XXIV, CHERTHALA.

7. V.D.LAIJU, MANGALA SOUDHAM, GENERAL MERCHANT, (LAKSHMI NARAYANA), CMC-XXV, CHERTHALA.

8. M.S.ANILKUMAR, ARUN JYOTHI, MAZHUVAKATT, OPP.RAILWAY STATION, CMC-24, CHERTHALA-688 524.

9. K.J.THANKACHAN, KANDATHIL HOUSE, CMC-XXIII, CHERTHALA P.O.

10. K.C.CHACKO, KUNNUMPURAM, CMC-XXIV, CHERTHALA.

11. P.J.JOSEPH, PUNNACKAL HOUSE, CMC-XXIII, CHERTHALA.

12. P.K.NADASEN, VELIPARAMBU HOUSE, CMC-XXVI, CHERTHALA.

13. P.A.JOSEPH, PUTHIYAPARAMBIL HOUSE, CMC-II, CHERTHALA.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS:
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1. KERALA HEAD LOAD WORKERS WELFARE BOARD, CHERTHALA COMMITTEE REPRESENTED BY ITS CHAIRMAN, CMC-XXIV, CHERTHALA.

2. THE ASSISTANT LABOUR OFFICER, CHERTHALA (SOUTH),

CHERTHALA.

3. KERLA HEADLOAD WORKERS WELFARE BOARD,
REPRESENTED BY ITS CHIEEF EXECUTIVE, S.R.M.ROAD,
ERNAKULAM.

4. THE CIRCLE INSPECTOR OF POLICE, CHERTHALA.

ADDL. 5. CHERTHALA TALUK HEAD LOAD AND GENERAL WORKERS'
UNION (C.I.T.U.), CHERTHALA, REP. BY ITS GENERAL
SECRETARY, V.K.PRASAD, S/O.KUMARAN, AGED 43 YEARS
VELIYIL, CMC-XXI, CHERTHALA TALUK.

(ADDL.5TH RESPONDENT IS IMPLEADED AS PER ORDER
DATED 11.07.2001 IN CMP 33189/2001)

BY ADV. SRI.A.V.RAMAKRISHNA PANICKER, SC,KHLWWB
R2 BY SR.GOVERNMENT PLEADER SMT.MEERA
SRI.G.JANARDHANA KURUP
SRI.JOHN K.GEORGE
SRI.R.SATHISH KUMAR, SC, KHLWWB
SRI.RENIL ANTO KANDAMKULATHY,SC,KHLWWB

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 PHOTOCOPY OF THE LETTER DATED 31.10.2000 SENT BY THE FIRST PETITIONER ASSOCIATION TO THE FIRST RESPONDENT.

EXT.P2 PHOTOCOPY OF THE LETTER DATED 5.6.2001 SENT BY THE FIRST PETITIONER ASSOCIATION TO THE FIRST RESPONDENT.

EXT.P3 PHOTOCOPY OF THE LETTER DATED 18.6.2001 ISSUED BY THE FIRST RESPONDENT TO THE FIRST PETITIONER ASSOCIATION

EXT.P4 PHOTOCOPY OF THE LETTER DATED 22.6.2001 SENT BY THE FIRST PETITIONER ASSOCIATION TO THE FIRST RESPONDENT.

EXT.P5 PHOTOCOPY OF THE PETITION DATED 19.6.2003 SENT TO THE 1ST RESPONDENT BY THE 4TH PETITIONER

EXT.P6 PHOTOCOPY OF THE LETTER DATED 23.6.2003 ISSUED BY THE 1ST RESPONDENT.

EXT.P7 PHOTOCOPY OF THE LETTER DATED 10.7.2003 SENT TO THE 1ST RESPONDENT BY THE 1ST PETITIONER ASSOCIATION

RESPONDENTS' EXHIBITS:

EXT.R1(A) TRUE COPY OF ORDER NO.291/2000 DATED 30.11.2000 OF THE 1ST RESPONDENT.

EXT.R1(B) TRUE COPY OF WORK CARD DATED 2.6.2001

EXT.R1(C) TRUE COPY OF WORK CARD DATED 1.6.2000.

EXT.R1(D) TRUE COPY OF WORK CARD DATED 4.6.2001

EXT.R1(E) TRUE COPY OF WORK CARD DATED 6.6.2001

EXT.R1(F) TRUE COPY OF WORK CARD DATED 1.6.2001

EXT.R1(G) TRUE COPY OF WORK CARD DATED 1.6.2001

EXT.R1(H) TRUE COPY OF WORK CARD DATED 1.6.2001

EXT.R1(I) TRUE COPY OF WORK CARD DATED 1.6.2001

EXT.R1(J) TRUE COPY OF WORK CARD DATED 1.6.2001

EXT.R1(K) TRUE COPY OF WORK CARD DATED 4.6.2001.

EXT.R5(A) TRUE COPY OF THE WORK CARDS ISSUED BY THE 1ST RESPONDENT (SERIES)

EXT.R5(B) TRUE COPY OF THE CERTIFICATE DT.16.3.2002 ISSSUED BY THE 1ST RESPONDENT.

EXT.R5(C) TRUE COPY OF THE DECISION BY THE HEADLOAD WORKERS WELFARE BOARD DATED 29.8.2003

EXT.R5(D) TRUE COPY OF DECISION BY THE KERALA HEADLOAD WORKERS WELFARE BOARD DATED 2.9.2003

/ TRUE COPY /

H.L.DATTU, C.J. & K.T.SANKARAN, J.

O.P.No.18915 of 2001

Dated, this the 16th day of August, 2007

JUDGMENT

H.L.Dattu, C.J.

The first petitioner is an Association.

(2) Petitioners 2 to 13 are called themselves as members of the first petitioner Association.

(3) The petitioners are before this Court for the following reliefs:

> "i) declare that the members of the first petitioner Association including petitioners 2 to 13 having their own permanent workers registered under the Kerala Head Load Workers Act and Scheme are entitled to do their work connected with their business without any obstruction from the workers of the first respondent;
>
> ii) issue a writ of mandamus or other appropriate writ, order or direction commanding the first respondent not to obstruct the members of the first petitioner Association including petitioners 2 to 13 from engaging attached permanent workers having registration under the Kerala Head Load Workers Act and Scheme for doing their work;
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> iii) issue a writ of mandamus or other appropriate writ, order or direction commanding the first respondent not to obstruct the business of the members of the first petitioner Association including petitioners 2 to 13 by using the attached permanent workers under them having registration under the Kerala Head Load Workers Act and Scheme;
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> iv) issue a writ of mandamus or other appropriate writ, order or direction commanding the fourth respondent to give necessary and adequate police protection to the members of the first petitioner Association including petitioners 2 to 13 for carrying out their work in their shops using their own attached permanent workers having registration under the Kerala Head Load Workers Act and Scheme as and when requested by the petitioners; and
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> v) grant such other and further reliefs as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

(4) This Court by its order dated 26.2.2002 in C.M.P.No.30515 of 2001 had issued an interim order to the respondents. The said interim order is as under:

> "There will be an interim direction to the respondents to see that the permanent workers having registration under Rule 26A of the Kerala Headload Workers Rules are not in any way obstructed in doing the work. Post O.P. for further orders on 7.3.2002."

(5) Learned counsel appearing for the petitioners would submit that he would be satisfied if the interim order granted by this Court on 26.2.2002 is continued and the original petition is finally disposed of.

(6) The respondents have no objection in the prayer sought by the petitioners' counsel is being granted.

(7) In view of the above, we only observe that the interim order passed by this Court on 26.2.2002 is the final order in this original petition in favour of petitioners 2 to 13 alone.

(8) Consequently, all pending civil miscellaneous petitions are rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns